

**Translation**

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>1867 PCT</b>	<b>FOR FURTHER ACTION</b>	See Form PCT/IPEA/416
International application No. <b>PCT/EP2004/002697</b>	International filing date (day/month/year) <b>16.03.2004</b>	Priority date (day/month/year) <b>18.03.2003</b>
International Patent Classification (IPC) or national classification and IPC		
Applicant <b>EXPRESSO DEUTSCHLAND GMBH</b>		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.																								
2.	This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.																								
3.	This report is also accompanied by ANNEXES, comprising: <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:             <ul style="list-style-type: none"> <li><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> </li> <li>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ul>																								
4.	This report contains indications relating to the following items: <table border="0"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/002697

## Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. 1-18 \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/3-3/3 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	1-18	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-18	NO
Industrial applicability (IA)	Claims	1-18	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

1 This report makes reference to the following documents:

D1: EP-A-0 991 039 (NCR INT INC) 5 April 2000  
(2000-04-05)

D2: US-A-4 882 724 (VELA LEO ET AL) 21 November  
1989 (1989-11-21)

D3: DE 100 28 980 A (SUPER MARKET MEDIA AG)  
10 January 2002 (2002-01-10)

D4: WO 93/04449 A (DIGICOMP RESEARCH CORP)  
4 March 1993 (1993-03-04)

## 2 INDEPENDENT CLAIM 1

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 does not involve an inventive step (PCT Article 33(3)).

Document D1 discloses a customer assistance system for stores, having all the essential features of claim 1 (see paragraphs 0015-0044). Regarding the definition of the information output devices,

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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the applicant should note that features preceded by wording such as "for example" or "in particular" do not restrict the scope of protection and are considered to be entirely optional (see the International Search and Preliminary Examination Guidelines, part II, 5.40).

The definition of claim 1 and the disclosure of document D1 differ in that in D1 the customer's wishes are input via touch screens linked to the shopping trolley, whereas in claim 1 a touch screen device is provided at the entrance to the sales floor. These are both implementation variants from which a person skilled in the art would choose according to need without thereby being inventive.

Furthermore, D1 does not explicitly mention the use of expert knowledge. It is, however, implied in that the system disclosed in D1 adapts the advertising information to the prior purchases and preferences of a user.

The subject matter of claim 1 therefore cannot be considered inventive. The applicant should also note that the disclosures of documents D2 and D3 would also lead to a similar result.

3           DEPENDENT CLAIMS 2-18

Claims 2-18 do not contain any features which, in

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p data-bbox="388 338 1352 674">combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step. Said claims contain implementation details which are also anticipated by D1 (claims 3, 4, 6-8, 10 of the application; see the aforementioned passages in D1) or are common in customer assistance systems.</p> <p data-bbox="388 743 1377 1383">The use of transponders, linking to the cash register system, the modelling of knowledge relating to accessories, the documenting and evaluating of buyer movements and patterns using statistical and customer information systems, the calculating of advertising times and the use of nested menus are generally known in the art and do not involve an inventive step (claims 5, 9, 11-15, 17-18 of the application; see, for example, D4). This also applies to the feature of the self-learning creation of a machine expert knowledge (claim 16 of the application; see, for example, page 38, line 16 - to page 39, line 9 of D4).</p>